

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>JAIME KHAMBA,</b>	:	
<b>Plaintiff,</b>	:	<b>CIVIL ACTION</b>
	:	
<b>v.</b>	:	
	:	
<b>VERIZON (BELL ATLANTIC),</b>	:	<b>No. 04-3525</b>
<b>Defendant.</b>	:	

**MEMORANDUM AND ORDER**

**Schiller, J.**

**July 27, 2004**

Plaintiff pro se Jaime Khamba requests leave to file a civil action in forma pauperis against his telephone service provider Verizon. Plaintiff alleges that Verizon owed him a credit of approximately \$270 but never issued him a check for this credit. (Compl. at 2-6.) Instead, Verizon allegedly applied this balance to Plaintiff's outstanding long-distance bill, which he claims was calculated in error. (*Id.*) Plaintiff appears to assert federal question jurisdiction for claims brought under 28 U.S.C. § 1983, as well as unspecified diversity jurisdiction. (*Id.* at 1.)

When a plaintiff files for leave to proceed in forma pauperis, the district court "assesses the complaint . . . to determine whether it is frivolous" pursuant to 28 U.S.C. § 1915(e). *Roman v. Jeffes*, 904 F.2d 192, 194 n.1 (3d Cir. 1990) (*citing Sinwell v. Shapp*, 536 F.2d 15 (3d Cir. 1976)). A district court may dismiss a claim as frivolous if it is "based on an indisputably meritless legal theory," *Neitzke v. Williams*, 490 U.S. 319, 327 (1989), such as where it is "readily apparent that the plaintiff's complaint lacks an arguable basis in law." *Roman*, 904 F.2d at 194; *see also Deutsch v. United States*, 67 F.3d 1080, 1085 (3d Cir. 1995).

In this case, Plaintiff's legal allegations are indisputably meritless because the Court lacks jurisdiction over them. Diversity jurisdiction does not exist because the amount in controversy is

approximately \$270. *See* 28 U.S.C. § 1332(a) (setting jurisdictional minimum of \$75,000); *see also* *Cellucci/Hodgkinson v. Jacoby & Myers Law Firm*, Civ. No. 98-6094, 1998 WL 808608, at \*1, 1998 U.S. Dist. LEXIS 18644, at \*1-2 (E.D. Pa. Nov. 23, 1998) (dismissing complaint seeking \$17,000 in damages as frivolous under § 1915); *Flagg v. Am. Fed’n of State, County, & Mun. Employees*, 1998 WL 472544, at \*2, 1998 U.S. Dist. LEXIS 12358, at \*5 (E.D. Pa. July 31, 1998) (dismissing complaint as frivolous for lack of diversity jurisdiction). Federal question jurisdiction is absent because Plaintiff asserts no genuine federal claims, given that a private corporation’s failure to issue a refund to a customer is not state action for the purposes of 28 U.S.C. § 1983. *Guevara v. Metro. Life Ins. Co.*, Civ. No. 99-2155, 2000 WL 502709, at \*4, 2000 U.S. Dist. LEXIS 5428, at \*11 (E.D. Pa. Apr. 26, 2000) (dismissing under § 1915 complaint alleging constitutional violations by private actors); *Messa v. Allstate Ins. Co.*, 897 F. Supp. 876, 880-81 (E.D. Pa. 1995) (same). Thus, Plaintiff’s suit is based on indisputably meritless legal theories, and therefore the Court grants Plaintiff’s request to proceed in forma pauperis and dismisses his Complaint as frivolous pursuant to § 1915(e). An appropriate Order follows.

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**Plaintiff,**

**v.**

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**Defendant.**

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**CIVIL ACTION**

**No. 04-3525**

**ORDER**

**AND NOW**, this 27<sup>th</sup> day of **July, 2004**, upon consideration of Plaintiff Jaime Khamba's Motion to Proceed in Forma Pauperis (Document No. 1), it is hereby **ORDERED** that:

1. Plaintiff's Motion to Proceed in Forma Pauperis is **GRANTED**.
2. This case is **DISMISSED** as frivolous pursuant to 28 U.S.C. § 1915(e).
3. The Clerk of Court is directed to close this case.

**BY THE COURT:**

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**Berle M. Schiller, J.**